

31. (New) The recombinant adenovirus of claim 30 wherein the promoter, which is activated only in neoplastic cells, is the surfactant protein B ("SPB") promoter.

32. (New) The recombinant adenovirus of claim 1 which comprises a polynucleotide that encodes an E3-12.5K protein.

REMARKS

Amendments to the Claims

The new claims 29-31 have been submitted to further define the scope of claim 1 under the judicially created doctrine of claim differentiation. These new claims do not present any new matter, since they are supported in the specification as filed. Support for claim 29 can be found at least at page 6, lines 12-13 of the specification; support for claim 30 can be found at least at page 6, lines 13-14; support for claim 31 can be found at page 31, lines 27-34; and support for claim 32 can be found at page 21, lines 9-15.

Applicants recognize the restriction requirement put forth in paper no. 8 of this case. However, new claims 29-31 are dependent upon claim 1, and therefore may not be considered to be "independent" as defined according to MPEP Section 802.01. Claims 29-31 are not "distinct" in that these adenoviruses may be constructed from the same backbone vector that overexpresses ADP as set forth in claim 1.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned Agent at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



Joseph E. Zahner, Ph.D., Reg. USPTO - 48,224
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101
Telephone: 314-552-6354
Fax: 314-552-7354